the applicant." *Matter of Scott, Sardano & Pomeranz v. Records Access*, 65 N.Y.2d 294, 296, 491 N.Y.S.2d 289, 480 N.E.2d 1071 (1985); *Matter of Farbman v. New York City Health & Hospitals Corp.*, 62 N.Y.2d 75, 80, 476 N.Y.S.2d 69, 464 N.E.2d 437 (1984). "A general public interest in disclosure need not be demonstrated and access to government records in aid of litigation, both against the government and against other individuals, frequently has been directed by the courts." *Journal Publishing Company v. Office of the Special Prosecutor*, 131 Misc.2d 417, 420, 500 N.Y.S.2d 919 (1986). **"In short, FOIL gives a sweeping right to public records and only narrow grounds for resisting disclosure."** *Id.* (Emphasis added.) See also *Lorei v. Smith*, 464 So.2d 1330, 1332 (Fla. 2nd DCA 1985), *review denied*, 475 So.2d 695 (Fla. 1985) (recognizing that the "breadth of such right [of access] is virtually unfettered, save for the statutory exemptions"). Application of FOIL by New York courts is no less broad than by Florida Courts. *Cf. Booksmart Enterprises v. Barnes & Noble*, 718 So.2d 227 (Fla. 3rd DCA 1998) and *In the Matter of Mohawk Book Company, Ltd. v. State University of New York, et al.*, 288 A.D.2d 574, 732 N.Y.S.2d 272 (3 Dept. 2001) (both state courts determining that university course syllabi were indeed public records, and must therefore be disclosed).

The sole difference between *First American* and *MicroDecisions* is not the public records laws of the two states, which guarantee precisely the same rights, but the resulting decision as applied to the rights involved under the Copyright Act. Such an incongruous result surely does not square with the intent of the Copyright Act. The Second District reaches such a result by eagerly embracing the Respondent's suggestion that the New York Public Records Law that purportedly controlled *First American* is not the same as Florida's Public Records Law, despite the

fact that they both guarantee the same rights to inspect and copy records, but not to sell them. See *MicroDecisions*, 889 So.2d at 876. The conflict is clear and admitted, though the Second District misconstrued whether federal or state law controlled the case: "New York law is not Florida law." *Id.* This Court needs to resolve this dichotomy.

## III. Petitioner's Interpretation Will Not Eviscerate Florida's Public Records Laws.

Contrary to Respondent's Chicken Little-esque claims that the Petitioner's interpretation of Florida's public records law will be the death knell for access to public records in the State of Florida, the opposite is true. It is uncontroverted that Petitioner has always provided one copy of any public record, including the GIS records in question here, upon payment of the fee prescribed by law, exactly as required under Chapter 119, Florida Statutes. Floridians' rights of access to public records stand to be damaged more by having to pay exorbitant subscription fees to entrepreneurs such as Respondent in order to view records than by viewing them on Petitioner's website for free or receiving a copy from the Petitioner for the actual cost of reproduction as provided under Florida's public records law.

Respectfully submitted,

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